

1 AN ACT in relation to transplants.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Department of Public Health Powers and
5 Duties Law of the Civil Administrative Code of Illinois is
6 amended by changing Section 2310-330 as follows:

7 (20 ILCS 2310/2310-330) (was 20 ILCS 2310/55.46)

8 Sec. 2310-330. Sperm and tissue bank registry; AIDS test
9 for donors; penalties.

10 (a) The Department shall establish a registry of all
11 sperm banks and tissue banks operating in this State. All
12 sperm banks and tissue banks operating in this State shall
13 register with the Department by May 1 of each year. Any
14 person, hospital, clinic, corporation, partnership, or other
15 legal entity that operates a sperm bank or tissue bank in
16 this State and fails to register with the Department pursuant
17 to this Section commits a business offense and shall be
18 subject to a fine of \$5000.

19 (b) All donors of semen for purposes of artificial
20 insemination, or donors of corneas, bones, organs, or other
21 human tissue for the purpose of injecting, transfusing, or
22 transplanting any of them in the human body, shall be tested
23 for evidence of exposure to human immunodeficiency virus
24 (HIV) and any other identified causative agent of acquired
25 immunodeficiency syndrome (AIDS) at the time of or after the
26 donation but prior to the semen, corneas, bones, organs, or
27 other human tissue being made available for that use.
28 However, when in the opinion of the attending physician the
29 life of a recipient of a bone, organ, or other human tissue
30 donation would be jeopardized by delays caused by testing for
31 evidence of exposure to HIV and any other causative agent of

1 AIDS, testing shall not be required.

2 (c) Except as otherwise provided in subsection (c-5), no
3 person may intentionally, knowingly, recklessly, or
4 negligently use the semen, corneas, bones, organs, or other
5 human tissue of a donor unless the requirements of subsection
6 (b) have been met. Except as otherwise provided in
7 subsection (c-5), no person may intentionally, knowingly,
8 recklessly, or negligently use the semen, corneas, bones,
9 organs, or other human tissue of a donor who has tested
10 positive for exposure to HIV or any other identified
11 causative agent of AIDS. Violation of this subsection (c)
12 shall be a Class 4 felony.

13 (c-5) It is not a violation of this Section for a person
14 to perform a solid organ transplant of an organ from an HIV
15 positive donor to a person who has tested positive for
16 exposure to HIV or any other identified causative agent of
17 AIDS and who is in immediate threat of death unless the
18 transplant is performed. A tissue bank that provides an organ
19 from an HIV positive donor under this subsection (c-5) may
20 not be criminally or civilly liable for the furnishing of
21 that organ under this subsection (c-5).

22 (d) For the purposes of this Section:
23 "Human tissue" shall not be construed to mean whole blood
24 or its component parts.

25 ~~For the purposes of this Section,~~ "Tissue bank" means any
26 facility or program that is involved in procuring,
27 furnishing, donating, processing, or distributing corneas,
28 bones, organs, or other human tissue for the purpose of
29 injecting, transfusing, or transplanting any of them in the
30 human body.

31 "Solid organ transplant" means the surgical
32 transplantation of internal organs including, but not limited
33 to, the liver, kidney, pancreas, lungs, or heart. "Solid
34 organ transplant" does not mean a bone marrow based

1 transplant or a blood transfusion.

2 "HIV positive donor" means a deceased donor who is
3 positive for HIV as determined by HIV antibody testing or who
4 is known to be HIV positive by the donor's medical history or
5 by HIV RNA testing.

6 (Source: P.A. 91-239, eff. 1-1-00.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.